

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KANDUS DAKUS, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

KONINKLIJKE LUCHTVAART
MAATSCHAPPIJ, N.V.,

Defendant.

Civil Action No. 1:22-cv-07962-RA

**DEFENDANT KLM'S
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant Koninklijke Luchtvaart Maatschappij, N.V. (“KLM”) respectfully notifies the Court of the following supplemental authority in further support of its motion to dismiss plaintiff Kandus Dakus’ First Amended Complaint (ECF No. 19): *Miramontes v. Ralph Lauren Corporation*, No. 22-CV-04192 (CM), 2023 WL 3293424 (S.D.N.Y. May 5, 2023). A true and correct copy of the decision is attached as Exhibit 1.

In *Miramontes* (also brought by Ms. Dakus’ counsel), the plaintiff—a Texas resident—who purchased a Pima cotton sweater from Ralph Lauren attempted to assert N.Y. General Business Law §§ 349 and 350 claims (“GBL”). *Id.* at *1. The Court found that the plaintiff’s GBL claims were “easily dismissed” because of “well settled” law. *Id.* at *5. Noting that GBL 349 and 350 apply to practices “in this state”, the Court observed that “[t]he Second Circuit has interpreted language ‘in this state’ as a ‘limiting phrase’ requiring that ‘the transaction in which the consumer is deceived . . . occur in New York.’” *Id.* (quoting *Cruz v. FXDirectDealer LLC*, 720 F.3d 115, 122 (2d Cir. 2013) (citing *Goshen v. Mut. Life Ins. Co. of New York*, 98 N.Y.2d 314, 324 & n.1, 774 N.E.2d 1190, 1195 (2002))).

The plaintiff also attempted to assert claims “under the consumer protection laws of various states.” *Id.* at *6. The Court dismissed those claims because “courts in many states have expressly held that only residents of their states can bring consumer fraud class actions on behalf of other state residents.” *Id.* at *8. Finally, the Court dismissed the unjust enrichment claim asserted because it was “based on the same allegations as Plaintiff’s other tort and contract claims.” *Miramontes*, 2023 WL 3293424, at *17.

Dated: May 10, 2023

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Keara M. Gordon

Keara M. Gordon
Colleen Carey Gulliver
Haley D. Torrey*
1251 Avenue of the Americas
New York, New York 10020-1104
Phone: (212) 335-4500
Facsimile: (212) 335-4501
keara.gordon@us.dlapiper.com
colleen.gulliver@us.dlapiper.com
haley.torrey@us.dlapiper.com

*Admitted *pro hac vice*

*Attorneys for Defendant Koninklijke
Luchtvaart Maatschappij, N.V.*

CERTIFICATE OF SERVICE

I hereby certify that I am one of the attorneys for the defendant in this action and that on May 10, 2023, I caused a copy of the foregoing to be filed with the Court's ECF system, which will cause notice of its filing to be served electronically upon all counsel who have appeared in this action.

/s/ Keara M. Gordon

Keara M. Gordon